

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jean Paul Lozada	Team: Squad #2	CCRB Case #: 201800879	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 01/17/2018 9:21 AM	Location of Incident: § 87(2)(b)	Precinct: 90	18 Mo. SOL 7/17/2019	EO SOL 7/17/2019	
Date/Time CV Reported Sun, 01/28/2018 12:12 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Sun, 01/28/2018 12:12 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. Officers			090 PCT
2. POM James Klimkoski	03236	924031	090 PCT
3. POM Anthony Bisram	10447	960253	090 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Latanya White	15536	935421	090 PCT
2. POF Shauntelle Nelson	18622	958978	090 PCT
3. SGT Alvin Law	01574	927064	090 PCT
4. POM Juan Herrera	21450	962473	090 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM James Klimkoski	Abuse: Police Officer James Klimkoski entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.POM James Klimkoski	Abuse: Police Officer James Klimkoski refused to provide his name to § 87(2)(b)	§ 87(2)(b)
C.POM James Klimkoski	Abuse: Police Officer James Klimkoski refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)
D.POM Anthony Bisram	Abuse: Police Officer Anthony Bisram refused to provide his name to § 87(2)(b)	§ 87(2)(b)
E.POM Anthony Bisram	Abuse: Police Officer Anthony Bisram refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)
F.POM James Klimkoski	Off. Language: Police Officer James Klimkoski made remarks to § 87(2)(b) based upon the physical disability of § 87(2)(b)	§ 87(2)(b)
G.POM James Klimkoski	Discourtesy: Police Officer James Klimkoski acted discourteously toward § 87(2)(b)	§ 87(2)(b)
H. Officers	Abuse: Officers forcibly removed § 87(2)(b) to the hospital.	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b), § 87(2)(g)		

## Case Summary

On January 28, 2018, § 87(2)(b) filed this complaint via the Call Processing System. On February 1, 2018, § 87(2)(b) filed another complaint with the CCRB via telephone about the same incident, and case § 87(2)(g) was subsequently closed as a duplicate of this case. On February 1, 2018, § 87(2)(b) filed a duplicate complaint with the Internal Affairs Bureau which was received by the CCRB on February 9, 2018. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

On January 17, 2018, at approximately 9:21 a.m., Police Officer James Klimkoski and Police Officer Anthony Bisram of the 90<sup>th</sup> Precinct responded to § 87(2)(b) § 87(2)(b) in Brooklyn after § 87(2)(b) allegedly threatened to commit suicide. Police Officer Klimkoski entered § 87(2)(b)'s apartment without his consent (**Allegation A: Abuse of Authority – Entry of Premises;** § 87(2)(g) § 87(2)(b) allegedly asked Police Officer Klimkoski for his name and shield number, and Police Officer Klimkoski allegedly said his name was “Coffey” and did not provide his shield number (**Allegation B and C: Abuse of Authority – Refusal to Provide Name, Refusal to Provide Shield Number;** § 87(2)(g) § 87(2)(b) also allegedly asked Police Officer Bisram for his name and shield number, and Police Officer Bisram allegedly did not respond (**Allegations D and E: Abuse of Authority – Refusal to Provide Name, Refusal to Provide Shield Number;** § 87(2)(g) Police Officer Klimkoski allegedly told § 87(2)(b) that he was going to go to the “nut house (**Allegation F: Offensive Language – Physical Disability,** § 87(2)(g) § 87(2)(b) asked for his medication, and Police Officer Klimkoski allegedly picked up a pill bottle, shook it in front of § 87(2)(b)'s face, and said, “You want this? You want this? Well too bad, you can’t have it (**Allegation G: Discourtesy – Action;** § 87(2)(g) § 87(2)(b) was transported to § 87(2)(b) via ambulance (**Allegation H: Abuse of Authority: Forcible Removal to Hospital;** § 87(2)(g) § 87(4-b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

No video footage of this incident was found.

## Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer James Klimkoski entered § 87(2)(b) § 87(2)(b) in Brooklyn.**

**Allegation (H) Abuse of Authority: Officers forcibly removed § 87(2)(b) to the hospital.**

§ 87(2)(b) provided a telephone statement on February 7, 2018 (Board Review 01), was interviewed at the CCRB on October 12, 2018, and provided a follow-up telephone statement on October 19, 2018 (Board Review 02). § 87(2)(b) employee § 87(2)(b) provided a telephone statement on March 9, 2018 (Board Review 03). § 87(2)(b)'s neighbor, § 87(2)(b) provided a telephone statement on January 31, 2019 (Board Review 04). Police Officer Klimkoski, Police Shauntelle Nelson of the 90<sup>th</sup> Precinct, and Police Officer Bisram were interviewed on November 28, 2018, January 3, 2019, and January 29, 2019, respectively.

§ 87(2)(b) stated that he was on the phone with his health insurance provider, § 87(2)(b), and was yelling because he was very aggravated and the call reception was poor. After speaking on the phone for 10 to 15 minutes, § 87(2)(b) heard someone banging continuously on his front door. § 87(2)(b) waited approximately five to seven minutes to open the door because he did not want to interrupt his phone call. § 87(2)(b) opened his door and saw numerous uniformed officers in the hallway. Police Officer Klimkoski said they received a call about § 87(2)(b) being suicidal, and he asked § 87(2)(b) if he wanted to commit suicide. § 87(2)(b) denied threatening to commit suicide. Police Officer Klimkoski, followed by the remaining officers, then entered § 87(2)(b)'s apartment without his consent or invitation to do so. The officers told § 87(2)(b) that they had to enter his apartment because he threatened to commit suicide. Approximately seven to nine minutes after the officers arrived, an EMT entered § 87(2)(b)'s apartment and told him that he had to go to the hospital. § 87(2)(b) was subsequently transported to § 87(2)(b) via ambulance.

§ 87(2)(b) stated that § 87(2)(b) employees call 911 when they suspect that someone they are speaking to represents an imminent danger to himself or others. She stated that § 87(2)(b) was “very manic” and “making threats,” and that she was concerned that he posed a risk to others. § 87(2)(b) stated that § 87(2)(b) said, “I can just go out on my bike and start stabbing people in their backs.” This statement prompted § 87(2)(b) to seek police assistance for § 87(2)(b).

According to EVENT § 87(2)(g) (Board Review 05 for EVENT printout, Board Review 06 for transcription of 911 recording), § 87(2)(b) a § 87(2)(b) employee, called 911 to report that § 87(2)(b) told § 87(2)(b) another § 87(2)(b) employee, over the phone that he was suicidal and that he was going to get on his bicycle and stab people in their backs. (The EVENT printout states that § 87(2)(b) threatened to get on his bike and scare people, not stab them, as stated in the recording.) § 87(2)(b)'s precise address and apartment number are printed on the EVENT.

In the police radio recording pertaining to this EVENT (Board Review 13), the dispatcher informed the officers that § 87(2)(b) was suicidal, aggressive, paranoid, and threatened to stab people in their backs. The dispatcher described § 87(2)(b)'s apartment as a “sensitive location” because it is “known for EDP (emotionally disturbed person).”

§ 87(2)(b)'s Ambulance Call Report (Privileged Document 01) states that § 87(2)(b) said he “doesn’t believe in suicide” and that he was transported by EMTs § 87(2)(b) and § 87(2)(b) to a hospital for “further evaluation.”

§ 87(2)(b)'s medical records from § 87(2)(b) (Privileged Document 02) note that § 87(2)(b) has a history of bipolar disorder. These records indicate that § 87(2)(b) showed “a tendency to cause harm to himself” because he was “acutely manic [and] unable to care for self in community, posing acute danger to self.” § 87(2)(b)'s psychiatric symptoms included disorganized thoughts, illogical statements, paranoia, and grandiose beliefs.

It is undisputed that Police Officer Klimkoski was the first officer to enter § 87(2)(b)'s apartment and that EMTs transported § 87(2)(b) from his apartment to § 87(2)(b).

Police Officer Klimkoski stated that he was the first officer to enter § 87(2)(b)'s apartment and that he did not recall whether he asked § 87(2)(b) for permission to enter or whether § 87(2)(b) invited him inside. Police Officer Klimkoski entered the apartment because it is “procedure” for officers to gain entry when they receive a radio run for an emotionally disturbed person who is threatening to harm himself. § 87(2)(b) was “agitated” and speaking loudly. Police Officer Klimkoski did not recall what § 87(2)(b) said, but § 87(2)(b)'s demeanor suggested to him that § 87(2)(b) suffered from a psychological problem. Police Officer Klimkoski told § 87(2)(b) the officers’ reason for responding to his apartment and that he had to go to a hospital for a psychiatric evaluation. Police Officer Klimkoski stated that when the EMTs arrived, they agreed with his assessment that § 87(2)(b) needed to be taken to a hospital for a psychiatric evaluation.

Police Officer Bisram’s statement regarding these allegations was generally consistent with Police Officer Klimkoski’s. He stated that § 87(2)(b) was behaving erratically, speaking nonsensically, and appeared as though he was off of his medication, but he did not recall what § 87(2)(b) said. Police Officer Bisram noted that it was the EMTs who determined that § 87(2)(b) needed to be hospitalized, but he did not know how they reached this assessment.

Police Officer Nelson’s statement was generally consistent with Police Officer Bisram’s. She stated that Police Officer Klimkoski entered the apartment after § 87(2)(b) opened the door wider and walked away to sit on his couch.

According to People v. Dallas, 8 N.Y.3d 890 (2007), officers may enter a private residence without a warrant if they have “reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life or property,” if their search is not “primarily motivated by the intent to arrest or seize evidence,” and if there is “some reason, approximating probable cause, to associate the emergency with the area or place being searched.” (Board Review 08) However, in Brigham City v. Stuart, 547 U.S. 398 (2006), the Supreme Court of the United States ruled that the second prong of the test cited in People v. Dallas regarding the officers’ motivation is “irrelevant” when assessing the emergency doctrine (Board Review 08).

Patrol Guide Procedure 221-13 defines an emotionally disturbed person as “a person who appears to be mentally ill or emotionally deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others,” and states that emotionally disturbed persons may be taken into protective custody for the purpose of receiving psychiatric treatment. Patrol Guide Procedure 216-01 states that once a person has been placed in the care of medical personnel, officers “shall cooperate with ambulance/hospital personnel in every reasonable manner.” (Board Review 08)

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**Allegation (B) Abuse of Authority: Police Officer James Klimkoski refused to provide his name to § 87(2)(b)**

**Allegation (C) Abuse of Authority: Police Officer James Klimkoski refused to provide his shield number to § 87(2)(b)**

**Allegation (D) Abuse of Authority: Police Officer Anthony Bisram refused to provide his name to § 87(2)(b)**

**Allegation (E) Abuse of Authority: Police Officer Anthony Bisram refused to provide his shield number to § 87(2)(b)**

**Allegation (F) Offensive Language: Police Officer James Klimkoski made remarks to § 87(2)(b) based upon the physical disability of § 87(2)(b)**

**Allegation (G) Discourtesy: Police Officer James Klimkoski acted discourteously toward § 87(2)(b)**

§ 87(2)(b) stated that after the officers entered his apartment, he asked Police Officer Klimkoski for his name and shield number, and Police Officer Klimkoski allegedly stated that his name was “Coffey” and did not provide his shield number. § 87(2)(b) did not believe this was Police Officer Klimkoski’s real name because he knew Lt. Thomas Coffey, formerly of the 90<sup>th</sup> Precinct and now retired. § 87(2)(b) stated that he asked Police Officer Bisram for his name and shield number, and Police Officer Bisram allegedly did not respond. Police Officer Klimkoski allegedly told § 87(2)(b) that he was going to go to the “nut house.” § 87(2)(b) asked if he could bring his medication with him, and Police Officer Klimkoski allegedly picked up a bottle of medication, shook it in front of § 87(2)(b)’s face, and said, “You want this? You want this? Well too bad, you can’t have it.” These allegations took place prior to the arrival of the EMTs.

Police Officer Klimkoski and Police Officer Bisram did recall § 87(2)(b) requesting their names or shield numbers, and they stated that no officer refused to provide his name or shield number to § 87(2)(b). Police Officer Nelson stated that § 87(2)(b) did not request any officer’s name or shield number. Police Officer Klimkoski and Police Officer Bisram stated that Police Officer Klimkoski did not tell § 87(2)(b) that he was going to go to the “nut house,” and Police Officer Nelson did not recall whether Police Officer Klimkoski said this. Police Officer Klimkoski and Police Officer Bisram stated that Police Officer Klimkoski did not shake a bottle of medication in front of § 87(2)(b)’s face or say, “You want this? You want this? Well too bad, you can’t have it,” and Police Officer Nelson did not recall whether this occurred.

§ 87(2)(g)

[REDACTED]

§ 87(4-b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

### **Allegations Not Pleaded**

- § 87(2)(b) stated that when he returned home from the hospital, his neighbor, § 87(2)(b) told him that an unidentified officer who was in the hallway called him a “nut.” § 87(2)(b) did not hear this remark himself. § 87(2)(b) stated that he did not recall hearing any officer call § 87(2)(b) a “nut,” and he noted that he had no specific memory of this particular incident because § 87(2)(b) had been removed from his apartment to a hospital on numerous occasions. § 87(2)(g)

### **Civilian and Officer CCRB Histories**

- § 87(2)(b) has been party to seven other CCRB complaints (Board Review 10).
  - § 87(2)(b)
  - [REDACTED]
- Police Officer James Klimkoski has been a member of service for 19 years and has been a subject in five other CCRB complaints and 10 other allegations, none of which were substantiated. § 87(2)(g)

- Police Officer Anthony Bisram has been a member of service for three years and has been a subject in two other CCRB complaints and six other allegations, none of which were substantiated. § 87(2)(g)

### **Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- As of February 7, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 11).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

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Squad No.: 02

Investigator:	Signature	Print Title & Name	Date
Squad Leader:	Signature	Print Title & Name	Date
Reviewer:	Signature	Print Title & Name	Date